

Oregon Agricultural Measures and CZARA Decision

Where We are and Where We're Going

Talking Points for Dennis McLerran for April 2nd Ag Directors' Meeting

- In January 2004, EPA and NOAA provided an informal interim approval to Oregon on Oregon's agricultural management measures because Oregon had designated agricultural water quality management areas and adopted its Agriculture Water Quality Management Act, also known as Senate Bill 1010, and companion nutrient management plans. These programs held the promise that Oregon had put processes in place consistent with the CZARA 6217(g) guidelines for agriculture.
- In that same interim approval document, EPA and NOAA identified some questions and concerns about adequacy of enforcement and focus on impaired areas and absence of protections for unimpaired areas. These concerns and others have been raised most recently again in the public comments.
- Since then EPA and NOAA have received comments from the public raising concerns about whether EPA and NOAA's interim approval reflected an accurate understanding of Senate Bill 1010 and whether Oregon's agricultural measures adequately protect water quality in coastal waters.
- Additionally, NOAA's National Marine Fisheries Services (NMFS) recent listings for coho salmon and draft recovery plans also found that insufficient riparian buffers around agricultural activities contribute to salmon decline.
- Consequently, on December 20, 2013, EPA and NOAA invited public comment on the adequacy of Oregon's agricultural programs and policies to prevent and control nonpoint source pollution consistent with CZARA goals and requirements.
- On January 30, 2015, EPA and NOAA disapproved Oregon's Coastal Nonpoint Control Plan solely on the basis of the inadequacy of certain forestry measures to protect water quality.
- EPA and NOAA did not make a finding on Oregon's agricultural management measures nor reverse the interim approval.
- EPA and NOAA are currently evaluating Oregon's agriculture program, previous EPA and NOAA determinations, and public comment that was received on Oregon's agricultural measures, including concerns raised in the following areas:

- Enforcement is limited and largely complaint driven; it is unclear what enforcement actions have been taken in the coastal nonpoint management area and what improvements resulted from those actions.
 - The Agricultural Water Quality Management Area (AWQMA) plan rules are general and do not include specific requirements for implementing the plan recommendations (i.e., absence of specific buffer requirements to adequately protect water quality and fish habitat).
 - AWQMA planning has focused on impaired areas when focus should also be on protecting areas from becoming impaired and on restoring impaired areas.
 - The State does not administer a formalized process to track implementation and effectiveness of AWQMA plans.
 - AWQMA planning and enforcement does not address “legacy” activities that led to impairment but are no longer occurring.
- EPA and NOAA will decide whether to reverse the interim approval or not. Before doing so, we would like to engage the State (ODA, ODEQ, other State agencies, as appropriate) in a discussion and an exchange of information to better understand the programs and to see whether and how the State is addressing or plans to address the concerns raised.
 - Next step is to set up a discussion with the State sometime in May.